

**CONTINUATION IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Nicholas von Koenig, being first duly sworn, hereby depose and state as follows:

Introduction and Agent Background

2. I make this continuation in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property—two electronic devices—which is currently in law enforcement possession, and the extraction from that property of electronically stored information described in Attachment B.

3. I am a Detective with the Berrien County Sheriff's Office and a Task Force Officer with the Federal Bureau of Investigation (FBI). I have been a Deputy with the Berrien County Sheriff's Office since 2010 and have been assigned to the FBI Benton Harbor Safe Streets Task Force since January 2022. I have directed and participated in numerous investigations involving allegations of violations of federal criminal statutes. As part of these investigations, I have applied for and served search warrants for contents of cellular devices. I have also participated in federal criminal investigations involving allegations of felons in possession of firearms.

4. Based on the information set forth below, there is probable cause to believe that evidence of violations of federal law, specifically, felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1), will be found on certain cellular phones (hereinafter “**Subject Device 1**” and “**Subject Device 2**,” collectively the “**Subject**

Devices," described more fully in Attachment A). The categories of electronically stored information and evidence sought are described in Attachment B.

Identification of the Devices to be Examined

5. On May 20, 2022, law enforcement seized from Theron Perry a white Cloud Mobile smart phone with a cracked screen, hereinafter referred to as **Subject Device 1**, and a black and metallic iridescent LG smart phone, hereinafter referred to as **Subject Device 2**, during a traffic stop in the 2800 block of Niles Avenue in St. Joseph, Michigan. Since being seized, the **Subject Devices** have been stored at the Benton Harbor Department of Public Safety and their contents are, to the extent material to this investigation, in substantially the same state as they were when the **Subject Devices** were first seized. This application seeks the issuance of a warrant to examine the **Subject Devices**.

6. The applied-for warrant would authorize the forensic examination of the **Subject Devices** for the purpose of identifying electronically stored data particularly described in Attachment B.

7. The facts in this continuation come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This continuation is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

Probable Cause

8. Since approximately April 2022, FBI Special Agents with the St. Joseph Resident Agency in the Detroit Division, as well as law enforcement officers in

multiple jurisdictions throughout Berrien County Michigan, have been investigating Theron PERRY for possessing a firearm as a convicted felon.

A. Previous Conviction and Supervised Release

9. In 2017, Theron PERRY pleaded guilty to being a felon in possession of firearms in case number 1:17-cr-88 in the Federal District Court for the Western District of Michigan. Chief Judge Jonker sentenced PERRY to 68 months in BOP to be followed by three years of supervised release. PERRY began his supervised release in January 2022.

B. April 20, 2022 Traffic Stop in Benton Harbor, Michigan.

10. On April 20, 2022, in Benton Harbor, Michigan State Police (“MSP”) troopers Jared Orban and Charles Scruggs observed a tan Mercury Sable traveling eastbound on Britain Avenue. As the car passed the troopers, they observed the lone occupant and driver to be a male subject wearing a black ski mask. The troopers conducted a U-turn to follow the car. Shortly after doing so, the car pulled into the driveway of 464 Packard Street and the driver exited the vehicle still wearing the ski mask. The troopers identified the Michigan license plate affixed to the Sable as EMT6618. Upon querying the plate through their system, they learned that license plate was associated with a 1996 GMC Yukon. This was an improper plate, which is a misdemeanor in the state of Michigan.

11. Shortly after arriving at 464 Packard Street, the Sable pulled out of the driveway and parked on the roadway near that residence facing southbound. Troopers approached the vehicle, observed the driver was the man they had seen previously, and activated their emergency lights to initiate a traffic stop. The driver

identified himself as Theron PERRY and told the troopers he did not have a valid driver's license. Based on the vehicle being improperly plated and the fact that PERRY was not a valid driver, the troopers requested that the car be towed. During an inventory search of the car, three handgun magazines were located in the center console of the vehicle. Inside a laundry basket full of clothes behind the driver's seat, troopers located a Taurus G3 9mm handgun with a chambered round and an additional 17 rounds inside the affixed magazine.

12. Troopers reviewed PERRY's criminal history and observed he was a convicted felon prohibited from possessing a firearm. PERRY was lodged at the Berrien County Jail for carrying a concealed weapon, felon in possession of a firearm, felon in possession of ammunition, and three counts of felony firearm.

13. As noted above, PERRY was on federal supervised release at the time of this incident. PERRY violated the terms of his supervision by possessing the firearm. United States Probation issued an arrest warrant for PERRY on April 25, 2022. However, PERRY had already been released on bond on April 22, 2022.

C. May 20, 2022 Traffic Stop in St. Joseph, Michigan.

14. On May 20, 2022, Trooper Orban was on patrol in St. Joseph, and saw PERRY driving a tan Mercury Mountaineer with Michigan license plate EFD7653, which is registered to Elizabeth Blaylock, a known girlfriend of PERRY. Trooper Orban knew that PERRY was wanted by United States Probation and attempted to execute a traffic stop to arrest PERRY at the Shell gas station located at 2600 Niles Avenue. When Trooper Orban attempted the traffic stop, PERRY fled northbound on Niles Avenue and Trooper Orban did not pursue him.

15. PERRY continued to travel northbound on Niles Avenue at a high rate of speed and struck another vehicle in the 2800 block of Niles Avenue. This caused him to lose control of his vehicle and crash into Flagstar Bank located at 2829 Niles Avenue. PERRY then got out of the vehicle and fled on foot across Niles Avenue where he was finally apprehended by troopers in a McDonald's parking lot at 2820 Niles Avenue.

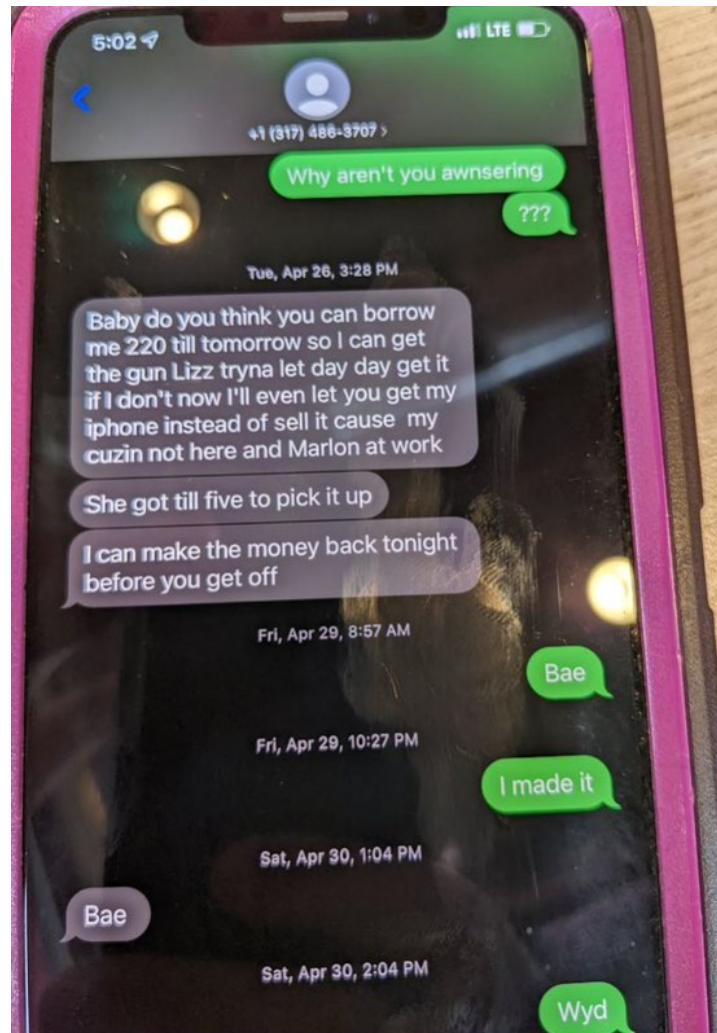
16. When PERRY was apprehended, a search of his person led to the discovery of **Subject Device 1**. During a subsequent inventory search of the Mountaineer, troopers located **Subject Device 2**. The **Subject Devices** have been stored in the Benton Harbor Department of Public Safety since being seized on May 20, 2022.

D. Interviews of Elizabeth Blaylock and Victoria Pipkins.

17. On May 25, 2022, Special Agent Ben Glynn and I interviewed Elizabeth Blaylock. Blaylock said that following PERRY's release from Berrien County jail on April 22, 2022, he requested that she purchase him a replacement firearm for the one that was seized during his arrest on April 20. Using money provided to her by PERRY, Blaylock purchased a Taurus G2 handgun and provided it to PERRY on April 27, 2022. Blaylock also said PERRY was dating Victoria Pipkins and that Pipkins had told her that the gun PERRY was originally arrested with was provided to PERRY by an individual who went by "Lil Rob."

18. Following the interview of Blaylock, investigators also interviewed Victoria Pipkins on May 25. Pipkins said PERRY communicated with her using multiple phone numbers associated with multiple physical devices. Two of the phone

numbers PERRY used to communicate with Pipkins were (317) 486-3707 and (269) 482-2712. Pipkins described the physical devices used by PERRY as a white phone with a cracked screen, believed to be **Subject Device 1**, and an LG Stylo 6 formerly used by Blaylock, believed to be **Subject Device 2**. Pipkins consented to investigators reviewing her message threads with PERRY. On April 26, 2022 at approximately 3:28 p.m., PERRY, using (317) 486-3707, sent the following message to Pipkins, who has phone number (269) 338-9771:



19. Based on my training experience and knowledge of the investigation, I believe PERRY was asking Pipkins to lend him \$220 for him to provide Blaylock

(“Lizz”) to purchase a gun for him. Pipkins confirmed this interpretation of the message. However, she said did not provide him the money he requested to purchase the gun.

20. Based on the foregoing, there is probable cause to believe the **Subject Devices** may contain evidence of when, how, and from whom Theron Perry obtained the firearm, including messages about who helped him by providing money to purchase the firearm.

21. In light of the forgoing, I seek this warrant to search the **Subject Devices** for evidence of the crimes under investigation. The **Subject Devices** have been stored so their contents are, to the extent material to this investigation, in substantially the same state as they were when the **Subject Devices** were first seized on May 20, 2022.

Technical Terms

22. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. **Wireless telephone**: A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional “land line” telephones. A wireless telephone usually contains a “call log,” which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless

telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic “address books;” sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet.

b. Smart Phone: A “smart phone” is one that operates as a wireless phone but also performs many of the functions of a computer, such as storing data (*i.e.*, names, addresses, appointments, or notes), utilizing computer programs and applications, accessing the internet, and sending and receiving email. Smart phones have an operating system capable of running downloaded applications including, but not limited to, word-processing applications and social media applications like Facebook and Instagram. Smart phones often include a memory card or other removable storage media for storing data and a keyboard and/or touch screen for entering data. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can store any digital data. Smart phones typically include global positioning system (“GPS”) technology for determining the location of the device.

c. Digital camera: A digital camera is a camera that records pictures as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually be retrieved by connecting the camera to a computer or by connecting the

removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos.

d. Portable media player: A portable media player (or “MP3 Player” or iPod) is a handheld digital storage device designed primarily to store and play audio, video, or photographic files. However, a portable media player can also store other digital data. Some portable media players can use removable storage media. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can also store any digital data. Depending on the model, a portable media player may have the ability to store very large amounts of electronic data and may offer additional features such as a calendar, contact list, clock, or games.

e. GPS: A GPS navigation device uses the Global Positioning System to display its current location. It often contains records the locations where it has been. Some GPS navigation devices can give a user driving or walking directions to another location. These devices can contain records of the addresses or locations involved in such navigation. The Global Positioning System (generally abbreviated “GPS”) consists of 24 NAVSTAR satellites orbiting the Earth. Each satellite contains an extremely accurate clock. Each satellite repeatedly transmits by radio a mathematical representation of the current time, combined with a special sequence of numbers. These signals are sent by radio, using specifications that are publicly

available. A GPS antenna on Earth can receive those signals. When a GPS antenna receives signals from at least four satellites, a computer connected to that antenna can mathematically calculate the antenna's latitude, longitude, and sometimes altitude with a high level of precision.

f. IP Address: An Internet Protocol address (or simply "IP address") is a unique numeric address used by computers on the Internet. An IP address is a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer and smart phone attached to the Internet computer must be assigned an IP address so that Internet traffic sent from and directed to that computer or smart phone may be directed properly from its source to its destination. Most Internet service providers control a range of IP addresses. Some computers have static—that is, long-term—IP addresses, while other computers have dynamic—that is, frequently changed—IP addresses. Most smart phones have dynamic IP addresses.

g. Internet: The internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the internet, connections between devices on the internet often cross state and international borders, even when the devices communicating with each other are in the same state.

23. Based on my training, experience, and research, I know that the **Subject Devices**, which are both "smart phones," in addition to serving as a wireless telephone, have capabilities that allow them to serve as digital cameras, portable media players, and GPS navigation devices. Additionally, as smart phones, the

Subject Devices operate as computers that can download and run multiple applications; they can connect to the internet and are assigned IP addresses when connected to the internet.

24. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device. Also in my training and experience, as well as the training and experience of other law enforcement officers with whom I work, I know that individuals who illegally possess firearms frequently utilize wireless telephones to communicate with others regarding their illegal firearms, such as PERRY did with Blaylock on April 26, 2022. I know that wireless telephones, and smart phones in particular, often contain evidence indicative of illegal possession of firearms, including confirmation of the telephone number associated with the device, records of incoming and outgoing calls and text messages with co-conspirators, particularly regarding illegally possessed firearms; voicemail messages; photographs of firearms and firearm related items (magazines, bullets, etc.); and, in the case of smart phones like the **Subject Device**, GPS data indicating the location of the device at given points in time, providing evidence to corroborate additional information about the users illegally possessing firearms in certain locations at certain times.

Electronic Storage and Forensic Analysis

25. Based on my knowledge, training, and experience, I know that electronic devices, including smart phones, can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some

period on the device. This information can sometimes be recovered with forensics tools.

26. Forensic evidence: As further described in Attachment B, this application seeks permission to locate not only electronically stored information that might serve as direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the **Subject Devices** were used, the purpose of their use, who used them, and when. There is probable cause to believe that this forensic electronic evidence might be on the **Subject Devices** because:

- a. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file).
- b. Forensic evidence on a device can also indicate who has used or controlled the device. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence.
- c. A person with appropriate familiarity with how an electronic device works may, after examining this forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, and when.
- d. The process of identifying the exact electronically stored information on a storage medium that is necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely

reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

e. Further, in finding evidence of how a device was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium.

27. Nature of examination: Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the **Subject Devices** consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the **Subject Devices** to human inspection to determine whether it is evidence described by the warrant.

28. Manner of execution: Because this warrant seeks only permission to examine devices already in law enforcement's possession, the execution of this warrant does not involve the physical intrusion onto a premise. Consequently, I submit there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.

Conclusion

29. I respectfully submit there is probable cause to believe that Theron PERRY illegally possessed a firearm as a convicted felon in violation of 18 U.S.C. §

922(g)(1). I also submit that this application supplies probable cause for a search warrant authorizing the examination of the **Subject Devices** described in Attachment A to seek the items described in Attachment B.